



**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**[Docket No. FRA-2001-11213, Notice No. 27]**

**Drug and Alcohol Testing: Determination of Minimum Random Testing Rates for 2023**

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notification of determination.

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**SUMMARY:** This notification of determination announces FRA's minimum annual random drug and minimum annual random alcohol testing rates for employees performing covered service under the hours of service laws (HOS employees), maintenance-of-way (MOW) employees, and mechanical (MECH) employees for calendar year 2023.

**DATES:** This determination takes effect [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**FOR FURTHER INFORMATION CONTACT:** Gerald Powers, FRA Drug and Alcohol Program Manager, by email: [gerald.powers@dot.gov](mailto:gerald.powers@dot.gov) or by telephone: 202-493-6313; or Melissa Van Dermeir, FRA Drug and Alcohol Program Specialist, by email: [melissa.vandermeir@dot.gov](mailto:melissa.vandermeir@dot.gov) or by telephone: 312-720-9491.

**SUPPLEMENTARY INFORMATION:** Each year, FRA sets its minimum annual random testing rates after considering the last two complete calendar years of railroad industry drug and alcohol program data submitted to its Management Information System (MIS). FRA, however, reserves the right to consider factors other than MIS-reported data before deciding whether to lower annual minimum random testing rates.

*See* 85 FR 81265 (Dec. 15, 2020).

FRA is announcing that its minimum annual random drug and alcohol testing rates for calendar year 2023 will continue to be as follows:

- HOS employees – 25 percent for drugs and 10 percent for alcohol.
- MOW employees – 25 percent for drugs and 10 percent for alcohol.
- MECH employees – 50 percent for drugs and 25 percent for alcohol.

Because these rates represent minimums, railroads and railroad contractors may conduct FRA random testing at higher rates.

## **Discussion**

### *Random Testing Rates for HOS Employees*

The rail industry's random drug testing positive rate for HOS employees remained below 1.0 percent for 2020 and 2021. The Administrator has therefore determined the minimum annual random drug testing rate for HOS employees will remain at 25 percent for the period January 1, 2023, through December 31, 2023. The industry-wide random alcohol testing violation rate for HOS employees remained below 0.5 percent for 2020 and 2021. The Administrator has therefore determined the minimum random alcohol testing rate for HOS employees will remain at 10 percent for the period January 1, 2023, through December 31, 2023.

### *Random Testing Rates for MOW Employees*

The rail industry's random drug testing positive rate for MOW employees remained below 1.0 percent for 2020 and 2021. The Administrator has therefore determined the minimum annual random drug testing rate for MOW employees will remain at 25 percent for the period January 1, 2023, through December 31, 2023. The industry-wide random alcohol testing violation rate for MOW employees remained below 0.5 percent for 2020 and 2021. The Administrator has therefore determined the minimum random alcohol testing rate for MOW employees will remain at 10 percent for the period

January 1, 2023, through December 31, 2023.

*Random Testing Rates for MECH Employees*

On February 2, 2022, FRA expanded the scope of its drug and alcohol regulation (49 CFR part 219) to add MECH employees. *See* 87 FR 5719. As it did with HOS employees and MOW employees when they first became subject to random testing, FRA set the initial minimum annual random testing rates for MECH employees at 50 percent for drugs and 25 percent for alcohol. FRA does not yet have the two full years of MIS data required to adjust the random testing rates for MECH employees. The Administrator has therefore determined that the minimum random testing rates for MECH employees will remain at 50 percent for drugs and 25 percent for alcohol for the period January 1, 2023, through December 31, 2023.

Issued in Washington, D.C.

**Amitabha Bose,**

*Administrator.*

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